

THE STATE OF TEXAS

FELONY

WARRANT OF ARREST

VS

Warrant No. F2220055

RUSSELL, BARRY LEE

AGENCY CASE# 220128019

DL -

SSN

DOB

THE STATE OF TEXAS

To any Sheriff, Constable or Peace Officer of the State of Texas, Greetings: You are Hereby Commanded to Arrest **RUSSELL, BARRY LEE** if to be found in your County and bring Him/Her before me, a Justice of the Peace in and for Precinct 2 of Midland County, Texas, at my office in Midland in said County, immediately, to then and there answer the State of Texas for an offense against the laws of said State, to-wit:


FAIL TO REPORT W/INTENT TO CONCEAL THE ABUSE OR NEGLECT

of which offense He/She, **RUSSELL, BARRY LEE** is accused by the written complaint, under oath, of **MPD J ALONZO** filed before me.

Herein Fail Not, but of this writ make due return, showing how you have executed the same.

Witness my official signature, this the **16th day of February 2022**

\$ 5,000 **BOND**
MUST BE MAGISTRATED PRIOR
TO RELEASE ON BOND


DAVID M. COBOS
Justice of the Peace, Pct 2
Midland County, Texas

Come to hand the _____ day of _____, 20__, at _____ o'clock _____.M., and executed on the _____ day of _____, 20__, at _____ o'clock _____.M., by arresting the within names _____ at _____ in _____ County, Texas, and Taking his bond or Placing him in Jail at _____.

I actually and necessarily traveled _____ miles in the service of this writ, in addition to any other mileage I may have traveled in the service of other process in this cause during the same trip.

FEES - Making Arrest\$ _____
Mileage.....\$ _____
Taking Bond.....\$ _____
Commitment.....\$ _____
Release.....\$ _____
TOTAL.....\$ _____

Sheriff / Constable

County, Texas
by _____ Deputy

Exhibit 5-001

OFFENSE: FAILURE TO REPORT

J.P. #: F2220055

DATE: February 16, 2022

BOND: \$ 5,000

IN THE NAME AND BY THE AUTHORITY OF THE STATE OF TEXAS:

BEFORE ME, the undersigned authority, on this day personally appeared affiant, who after being by me first duly sworn, says on or about the 20th day of JANUARY, A.D. 2022 and before the making and filing of this complaint, in the County of Midland, State of Texas,

BARRY LEE RUSSELL (WM DOB [REDACTED])

(Name of Defendant)

did then and there having reasonable cause to believe that the physical and mental health and welfare of [REDACTED] a child had been and may be adversely affected by the offense of AGGRAVATED SEXUAL ASSAULT, and the said then and there knowingly as a professional failed to report as provided by law, and has a duty to report under 261.101(a) of the Texas Family Code, and is a state jail felony under 261.109 (c) of the Texas Family Code, the actor intended to conceal the abuse or neglect

against the peace and dignity of the State.


AFFIANT J. ALONZO

Sworn to and subscribed before me by affiant, a credible person, on this the 16 day of Feb, A.D. 2022



JUSTICE OF THE PEACE

Precinct 2 Place _____

Midland County, Texas

Time Filed: _____

AFFIDAVIT FOR ARREST WARRANT

J.P.# F2220055

THE STATE OF TEXAS
COUNTY OF MIDLAND

Case#220128019

The undersigned affiant, being a peace officer under the laws of Texas, and being duly sworn, on oath, makes the following statement and accusation:

1. Suspected Party: Barry Lee Russell, WM DOB [REDACTED] Brown Hair, Blue Eyes, 5'11", 212LBS, TXDL [REDACTED]

2. It is the belief of Affiant, and he hereby charges and accuses, that said suspected party has committed the following offense: FAILURE TO REPORT TEXAS FAMILY CODE SECTION 261.109(C) (STATE JAIL FELONY) ON OR ABOUT JANUARY 20TH, 2022 AT MIDLAND CHRISTIAN SCHOOL LOCATED AT 2001 CULVER IN MIDLAND, IN THE COUNTY OF MIDLAND, TEXAS.

3. Affiant has probable cause for said belief by reason of the following facts, to wit:

The affiant Jennie Alonzo is a Detective with City of Midland Police Department and is currently assigned to the Crime Against Persons Division in the Investigative Service Bureau. Affiant has been employed with the Midland Police Department for 9 years.

On Friday, January 28, 2022, I, Detective Alonzo was the on-call Crimes Against Persons Detective and was notified in reference to a possible sexual assault of a child that occurred at Midland Christian School. I was further advised that the assault did not just occur. The incident was reported to have occurred on or about Thursday, January 20th, 2022, during baseball practice at Max H. Christensen Stadium located at 4300 N. Lamesa.

I contacted the victim, [REDACTED] (WM DOB [REDACTED]) and his mother Veronica Costilla in reference to the incident. A forensic interview was scheduled for Friday, February 11, 2022, at the Children's Advocacy Center.

CAC Interview with [REDACTED] with Forensic Interviewer Radhi Gufur

Radhi conducted an interview with [REDACTED]. Radhi went over the rules of the interview with [REDACTED] he understood. Radhi went over that [REDACTED] knows the difference between telling the truth and telling a lie. [REDACTED] agreed to talk about true things today.

Radhi asked [REDACTED] why he was at the center on this date. [REDACTED] explained Radhi that on a Tuesday in January 2022, after practice he went into the locker room to get changed. When [REDACTED] got into the locker room, the lights were turned off. [REDACTED] stated that it was *freshman initiation day*. [REDACTED] stated that someone came after him and began hitting him. [REDACTED] was pushed to the ground, and they were still hitting him. [REDACTED] stated he could hear everyone screaming when this occurred. [REDACTED] stated he hit back, and the person told him that he was not allowed to hit back. [REDACTED] stated the boy hitting him was [REDACTED] (WM DOB [REDACTED]) who is a 10th grader at Midland Christian. [REDACTED] stated that [REDACTED] put his knees on [REDACTED] hands so he could not hit back. [REDACTED] flipped

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over onto his back and put a bat in his butt. explained that he was wearing white baseball pants when put the bat up his butt. When the bat was pushed into his butt, his pants and underwear were pushed in as well. stated that he could feel the knob of the bat in his butt. explained that when he felt the bat, it was felt hard. stated that when he got up his butt hurt, and it was sore.

Radhi exited the interview for a break. When Radhi returned to the interview room, she clarified with what had happened with the bat. stated that the bat went into his butt. stated that it felt like something poking him. stated that his underwear was pushed in his butt. stated that it felt like something was poking through his pants, puncturing his butt. stated that his hands were behind his back.

stated that he sees now. The two of them see each other every day as they are on the same baseball team.

On Friday, February 11, 2022, SGT R. Sharp and I went to Midland Christian School located at 2001 Culver Dr. to speak with the Superintendent of the school, which is Jared Owen Lee (WM DOB). Lee was out of the office. However, I spoke with Dana Elizabeth Ellis (WF DOB) who is the secondary school principal. I requested for Ellis to have come to the office. After some time, came to the office and was later transported to the Midland Police Department.

While speaking to Ellis, she advised me that she was aware of an investigation into the incident between and Ellis stated that she knew it had been documented. I requested copies of the documentation. However, Ellis stated that Lee had the documentation pertaining to the incident and she did not have access to it. I requested that the documents be sent to me on Monday February 14, 2022. It was discovered that on Thursday, January 20, 2022, Ellis was notified in reference to a sexual assault that had occurred. Ellis stated she knew of the incident on January 20, 2022, that a one of baseball players had a baseball bat shoved into his anus. On January 21, 2022, Ellis notified Lee in reference to the student having a baseball bat shoved up his anus to which he was aware on that date. At that time Lee directed Gregory Neal McClendon (WM DOB) and Matthew David Counts (WM DOB) to conduct an "investigation" into the incident instead of notifying law enforcement or another state agency listed in Texas Family Code section: 261.101. I provided her with my card with my contact information.

On February 14, 2022, I received a call from Lee who stated that he would not provide the documentation and refused to answer any questions during the call, he requested a search warrant.

It should be noted that in the original report, Officer Fonseca listed that he spoke with Lee on January 28, 2022. During this interaction, Lee stated that their investigation found the baseball bat did in fact touch anus but did not go inside.

A search warrant was applied for and granted. The search warrant was served on February 14, 2022, at Midland Christian School.

During the course of the investigation, it was found that the following individuals employed with Midland Christian School had knowledge of the sexual assault on January 21, 2022 - Jared O. Lee who is the Superintendent of Midland Christian, Dana E. Ellis who is the Principal of the Secondary School, Matthew D. Counts who is the Vice Principal of the Secondary School, Gregory N. McClendon who is the Athletic Director, and Barry Lee Russell (WM DOB) who is one of the baseball coaches. These individuals who are administrators and teachers at Midland Christian School are required by Texas



Family Code:261.101 to report the incident to authorities. Instead of reporting the incident they have continually attempted to conceal the incident or abuse from authorities. The above listed staff members of the school conducted their own "investigation" although they had knowledge of the sexual assault.

During the search at Midland Christian School, I was given documents by Lee. These were described as "notes" from McClendon and Counts. There was no documentation. These documents were created either February 11th by Counts and February 12th by McClendon. In these notes, there was documentation that describes [REDACTED]'s anus was touched with the baseball bat. However, McClendon and Counts both stated that on February 14, 2022, during separate interviews that this was most of the information they could remember (interviews with students) since the incident occurred three weeks ago. None of the students were interviewed by a forensic interviewer. The victim did not have a forensic interview, nor did he have a SANE done at that time due to law enforcement not being notified of the incident.

I was also given emails that contained communication between the initial complainant, Lee, Ellis, Counts, McClendon, and Russell. In the emails it was made very clear that a sexual assault had occurred, and the school had a duty to report. The complainant told the school administration if they did not report the incident, he would have to as a mandatory/professional reporter. There were multiple emails exchanged. Several of the administrators refused to report the incident as shown in emails when communicating and responding to the complainant.

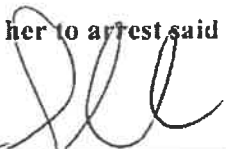
The above listed administrators of Midland Christian School failed to report the abuse under Texas Family Code Section: 261.109 in an attempt to conceal the allegation of a fellow student/baseball player who sexually assaulted another student/baseball player (victim) with a baseball bat.

On this date, February 16, 2022, a warrant will be issued for the following – Jared Owen Lee, Dana Elizabeth Ellis, Gregory Neal McClendon, Matthew David Counts, and Barry Lee Russell for Failure to Report (State Jail Felony).

ALL THE FACTS CONTAINED HEREIN ARE SUBSEQUENT TO AND GATHERED THROUGH OFFICIAL POLICE REPORTS AND FROM THE CRIMINAL INVESTIGATION CONDUCTED BY DETECTIVE JENNIE ALONZO OF THE MIDLAND POLICE DEPARTMENT. THE ABOVE EVENTS OCCURRED IN THE CITY AND COUNTY OF MIDLAND, TEXAS AND ARE TRUE AND CORRECT TO THE BEST OF AFFIANT'S KNOWLEDGE.


Wherefore, affiant asks for an issuance of a warrant that will authorize her to arrest said suspected party.

Affiant


J. ALONZO 2/24/22

Subscribed and sworn to before me by said Affiant on this the 16TH day of February 2022.

Time _____


Justice of the Peace
Precinct #
Midland County, Texas